

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Government Efficiency Appropriations Committee

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BILL: SB 2676

INTRODUCER: Senator Webster

SUBJECT: Ad Valorem Taxation

DATE: April 14, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	<u>Favorable</u>
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Article VII, section (3)(a), of the Florida Constitution authorizes the Legislature to provide an exemption from ad valorem taxes for property used predominately for religious purposes. This bill specifies that properties are exempt from ad valorem taxation if the property is owned by an entity exempt under section 501(c)(3) of the Internal Revenue Code and is used to:

- exhibit, illustrate, and interpret biblical manuscripts, codices, stone tablets, and other biblical archives;
- provide live or recorded demonstrations, explanations, reenactments, and illustrations of biblical history and biblical worship; or
- exhibit times, places, and events of biblical history and significance.

Properties meeting this criteria must also be open to the public free of charge at least one day each year (subject to capacity limits), and have documentation from the Internal Revenue Service that the property is used for activities which do not endanger its status as an exempt entity.

This bill creates section 196.1987 of the Florida Statutes.

## II. Present Situation:

Under Article VII, section (3)(a), of the Florida Constitution the Legislature is authorized to provide an exemption from the property tax for property used predominately for religious purposes. Section 196.196, F.S., enacts this exemption and provides some guidance as to how it is to be administered. This section provides that in determining whether an applicant is actually

using all or a portion of its property predominantly for a charitable, religious, scientific, or literary purpose, the following criteria shall be applied:

- The nature and extent of the charitable, religious, scientific, or literary activity of the applicant, a comparison of such activities with all other activities of the organization, and the utilization of the property for charitable, religious, scientific, or literary activities as compared with other uses; and
- The extent to which the property has been made available to groups who perform exempt purposes at a charge that is equal to or less than the cost of providing the facilities for their use. Such rental or service shall be considered as part of the exempt purposes of the applicant.

Section 196.196, F.S., further stipulates that only those portions of property used predominantly for charitable, religious, scientific, or literary purposes will be exempt. Property claimed as exempt for authorized purposes which is used for profit-making purposes is subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, is not considered profit making.

Despite the guidance provided by s. 196.196, F.S., disputes periodically arise as to what constitutes a religious use of property. For example, in the recent case of *Zion's Hope v. Donegan* (Case No. CIO-01-9794, Ninth Judicial Circuit), the issue was whether the property was being used for a religious purpose and exempt from taxation. In this instance, the plaintiff enjoys a tax exemption for the tract where a sanctuary and an administration building exist. The Property Appraiser denied the exemption on the religious theme park ("The Holy Land Experience"). The Property Appraiser maintained that the property was a theme park that simply had a biblical theme, while the plaintiff maintained that the land was being used "to impact Christians and non-Christians alike with the life-changing message of Jesus Christ, through the format of a living Biblical museum." According to Marvin Rosenthal, the president of Zion's Hope, the mission of the park "is to be a teaching aid to evangelical Christianity and churches to help them better understand biblical scriptures from the historical, cultural and geographical background out of which they came and evangelize the world." The plaintiff filed actions for tax years 2001-2004 which were consolidated.

In 2004 the plaintiff voluntarily dismissed its claim for 2001 tax year and filed a motion for summary judgment. In July 2005, the Court granted the plaintiff's motion. The Property Appraiser filed a motion for reconsideration which has not been argued before or ruled upon by the Court. In December 2005, a similar action was filed in the Ninth Judicial Circuit, *Holy Land Experience Ministries v. Donegan* (Case No. 05-10575) in which Zion's Hope was denied an ad valorem tax exemption for the 2005 tax year.

### **III. Effect of Proposed Changes:**

The bill creates s. 196.1987, F.S., to provide that properties are exempt from ad valorem taxation if the property is owned by an entity exempt under section 501(c)(3) of the Internal Revenue Code and is used to:

- exhibit, illustrate, and interpret biblical manuscripts, codices, stone tablets, and other biblical archives;
- provide live or recorded demonstrations, explanations, reenactments, and illustrations of biblical history and biblical worship; or
- exhibit times, places, and events of biblical history and significance.

The bill further specifies that properties meeting one or more these criteria must also be open to the public free of charge at least one day each year (subject to capacity limits), and have documentation from the Internal Revenue Service that the property is used for activities which do not endanger its status as an exempt entity.

Any portion of the property that is used for non-exempt purposes may be valued and placed upon the tax rolls separately from any portion that is entitled to exemption under this bill.

This bill has an effective date of July 1, 2006

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

On March 31, 2006, the Revenue Estimating Conference found this bill to have a negative but indeterminate impact on local government property tax revenue.

B. Private Sector Impact:

The bill would provide an exemption from ad valorem taxes for private sector entities meeting the criteria established in the bill.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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